

Decision 03-12-043 December 18, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Oceanside for authority to construct a railroad undercrossing for a pedestrian and bicycle purposes under the existing railroad bridge on the southerly side of the San Luis Rey River.

Application 03-03-001
(Filed March 5, 2003)

O P I N I O N

Summary

City of Oceanside (City) requests authority for a grade-separated pedestrian and bicycle-rail crossing under the existing railroad bridge of the North County Transit District (NCTD) over the San Luis Rey River in City of Oceanside, San Diego County.

Discussion

The City's San Luis Rey River underpass will allow pedestrian and bicycle access along the existing 8-mile long San Luis Rey River Recreation Trail underneath the tracks connecting the easterly portion of the trail to Pacific Street and provide more direct access to the City's harbor and beaches. The San Luis Rey River Recreation Trail underpass will be built on the southerly side of the existing NCTD's San Luis Rey River railroad bridge. NCTD's proposed future double tracking plans will eliminate the trails current alignment, thereby necessitating the proposed pedestrian and bicycle trail underpass.

NCTD owns the right-of-way within the project limits, which were originally owned and operated by Atchison, Topeka, and Santa Fe Railway

Company. Burlington Northern Santa Fe Railway Company operates freight trains and the National Railroad Passenger Corporation (Amtrak) operates passenger trains over these tracks. Amtrak also operates the Coaster trains for NCTD, and NCTD maintains the tracks.

The proposed pedestrian and bicycle grade-separated crossing will provide an improved path under the San Luis Rey River railroad bridge, offering a direct connection to the new Pacific Street bridge (construction scheduled for 2004), and increase public safety with access from the San Luis Rey River to the harbor and beach area. Currently, pedestrians and bicyclists use the unimproved access under the bridge or cross the railroad tracks to access Pacific Street. The proposed alignment is the most direct and safest route to be taken by the trail users with the nearest highway-rail at-grade crossing being approximately two thousand feet to the south at Surfrider Way (CPUC Crossing No. 106-225.9).

City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, as stated in Public Resources Code Section 21000 et seq. On September 9, 1998, City filed a Final Negative Declaration for this project, a copy is included in Appendix A attached to the order.

The Final Negative Declaration found that the project would have no significant adverse effects upon the environment per compliance with mitigation measures. Specifically, there would be no significant effects to specified environmental concern areas including, but not limited to, land use and planning, population and housing, transportation/circulation, recreation, aesthetics, air quality, cultural resources, hazards, and noise. The Negative Declaration specifies mitigation measures, attached in Appendix B, which are

required in order to eliminate or require potential significant environmental impacts to geology, water and biology to less-than-significant levels.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. The specific activities that must be conducted by a responsible agency are contained in CEQA Guideline Section 15096.

The Commission has reviewed and considered the lead agency's environmental documents and finds them adequate for our decision-making purposes. Safety, transportation, and noise are within the scope of the Commission's permitting process. The Final Negative Declaration did not identify environmental impacts related to safety, transportation, and noise.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section staff (RCES) inspected the site of the grade-separated pedestrian and bicycle underpass. After reviewing the need for and the safety of the permanent pedestrian and bicycle underpass at separated grade, RCES recommends that City's request be granted.

On September 8, 2003, the City filed an amendment to the original application in an effort to improve the public safety around an active rail line and in response to the comments raised by NCTD and RCES staff. The following two additions were noted and made to the proposed project's plans:

1. Extending fencing to inhibit trail users from trespassing into the rail corridor within NCTD right-of-way.
2. Covering the pathway underneath the existing railroad bridge over the San Luis Rey River and extending east and west 10 feet past the bridge to protect trail users from overhead falling debris.

A concurrence letter, dated September 5, 2003 from NCTD indicates that the representative takes no exception to the construction of the improvements proposed by the project plans.

The application, as modified, is in compliance with the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure, which relates to the construction of public highway-rail crossings and separations under a railroad. A site vicinity map of the pedestrian and bicycle crossing under the existing railroad bridge over the San Luis Rey River is shown in the application and in Appendix C attached to this order.

In Resolution ALJ 176-3109, dated March 13, 2003 the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed, this preliminary determination remains accurate. RCES recommends that this application, as modified to address safety enhancements, be granted. Given these developments, it is not necessary to revise the preliminary determinations made in Resolution ALJ 176-3109.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The Commission published a Notice of the Application in the Commission Daily Calendar on March 7, 2003. There were no unresolved matters or protests; a public hearing is not necessary.

2. The City requests authority for a pedestrian and bicycle-rail crossing under the existing railroad bridge of the NCTD over the San Luis Rey River in City of Oceanside, San Diego County.

3. San Luis Rey River underpass will allow improved pedestrian and bicycle access along the existing 8-mile long San Luis Rey River Recreation Trail underneath the tracks connecting the easterly portion of the trail to Pacific Street and provide more direct access to the City's harbor and beaches.

4. City made minor modifications to the application pursuant to concerns by NCTD and RCES staff to enhance safety.

5. City will extend fencing to inhibit trail users from trespassing into the rail corridor within NCTD right-of-way and cover the pathway underneath the existing railroad bridge, also extending east and west 10 feet past the bridge to protect trail users from overhead falling debris.

6. Public convenience, safety and necessity require the permanent pedestrian and bicycle underpass at separated grade.

7. City is the lead agency for this project under CEQA, as amended.

8. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Final Negative Declaration.

9. The City's Negative Declaration found that the project would have no significant environmental effects with the adoption of mitigation measures related to geology, water and biology.

10. Safety, transportation and noise are within the scope of the Commission's permitting process.

11. The City's Negative Declaration identified no potential impacts related to safety, transportation or noise.

Conclusions of Law

1. There are no unresolved matters or protests; a public hearing is not necessary.
2. The City's environmental documents are adequate for our decision-making purposes.
3. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. City of Oceanside (City) is authorized to construct a permanent grade-separated pedestrian and bicycle-rail crossing under the existing railroad bridge of the North County Transit District (NCTD) over the San Luis Rey River in City of Oceanside, San Diego County, at the location and substantially as shown by plans attached to the application and Appendix C of this order, to be identified as CPUC Crossing No. 106-225.5-BD.
2. The crossing design shall conform to all applicable Commission General Orders.
3. City shall extend fencing 150 feet east and 50 feet west to inhibit trail users from trespassing into the rail corridor within NCTD right-of-way.
4. City shall cover the pathway underneath the existing railroad bridge, extending east and west 10 feet past the bridge to protect trail users from overhead falling debris.
5. Construction and maintenance costs shall be borne in accordance with an agreement between the City and NCTD (parties). A copy of the agreement shall be filed with the Commission's Rail Crossings Engineering Section staff (RCES) prior to starting construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

6. Within 30 days after completion of the work under this order, NCTD shall notify RCES in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), that the authorized work is complete.

7. This authorization shall expire if not exercised within three years unless the Commission extends the time or if the parties do not comply with the above conditions. The Commission may revoke or modify authorization if public convenience, necessity or safety so require.

8. The application is granted as set forth above.

9. Application 03-03-001 is closed.

This order becomes effective 30 days from today.

Dated December 18, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

APPENDIX A
FINAL NEGATIVE DECLARATION



CITY OF OCEANSIDE
PLANNING DEPARTMENT

FINAL NEGATIVE DECLARATION

TO ☒ OFFICE OF PLANNING AND RESEARCH
1400 TENTH STREET, ROOM 121
SACRAMENTO, CA 95814

☒ RECORDER/COUNTY CLERK
COUNTY OF SAN DIEGO
P.O. BOX 1750
SAN DIEGO, CA 92112-4147

PROJECT TITLE AND FILE NUMBER:

SAN LUIS REY BIKE TRAIL SEGMENT

PROJECT LOCATION:

South side of the San Luis Rey River between Pacific Street and the closed loop ramp east of I-5.

PROJECT DESCRIPTION:

The proposed action is construction of a section of bike trail along the south side of the San Luis Rey River.

FINDING: Pursuant to the provisions of Ordinance No. 88-31, pertaining to procedures and guidelines to implement the California Environmental Quality Act (Public Resources Code Section 21000 et. al.), the proposed project has been reviewed by the Environmental Review Committee established by ordinance to be responsible for evaluating the information. The Environmental Review Committee, after study of the facts and findings, has on June 15, 1998 determined that the project will not have a significant effect on the environment.

— THE PROJECT WAS DETERMINED TO HAVE NO MAJOR SIGNIFICANT ADVERSE EFFECT UPON THE ENVIRONMENT.

☒ THE PROJECT WAS DETERMINED TO HAVE NO MAJOR SIGNIFICANT ADVERSE EFFECTS UPON THE ENVIRONMENT PER COMPLIANCE WITH THE FOLLOWING CONDITIONS:

See attached Initial Study

Initial Study prepared by
Jerry Hittelman, Senior Planner

Contact Person
Bill Teas, Project Manager

The Initial Study is available for public review and may be examined at

City of Oceanside
Planning Department
300 N. Coast Highway
Oceanside, CA 92054

SIGNATURE

For: Michael J. Blessing, Planning Director

September 9, 1998
DATE

Environmental Factors Potentially Affected:

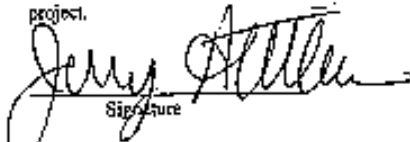
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

Land Use and Planning	<input type="checkbox"/>	Transportation/Circulation	<input type="checkbox"/>	Public Services	<input type="checkbox"/>
Population and Housing	<input type="checkbox"/>	Biological Resources	<input checked="" type="checkbox"/>	Utilities/Service Sys.	<input type="checkbox"/>
Geological Problems	<input checked="" type="checkbox"/>	Energy and Mineral Resources	<input type="checkbox"/>	Aesthetics	<input type="checkbox"/>
Water	<input checked="" type="checkbox"/>	Hazards	<input type="checkbox"/>	Cultural Resources	<input type="checkbox"/>
Air Quality	<input type="checkbox"/>	Noise	<input type="checkbox"/>	Recreation	<input type="checkbox"/>
		Mandatory Findings of Significance	<input type="checkbox"/>		

Determination:

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared. ☐
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A NEGATIVE DECLARATION will be prepared. ☒
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required. I find that the proposed project MAY have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. If the effect is a "potentially significant impact" or "potentially significant unless mitigated," An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed. ☐
- I find that although the proposed project could have a significant effect on the environment, there WILL NOT be a significant effect in this case because all potentially significant effects (a) have been analyzed adequately in an earlier EIR pursuant to applicable standards and (b) have been avoided or mitigated pursuant to that EIR, including revisions or mitigation measures that are imposed upon the proposed project. ☐


 Signature
 Jerry Hightman
 Printed Name

June 15, 1998
 Date of Draft

September 9, 1998
 Date of Final

APPENDIX B MITIGATION MEASURES

XVII. EARLIER ANALYSES.

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or Negative Declaration. Section 15063(c)(3)(D). The following is a discussion of earlier analyses:

Recreational trails, including bike trails throughout the City of Oceanside were analyzed in the Negative Declaration for the Recreational Trails Element of the General Plan (City of Oceanside, October 1995). Trails were addressed in a general, system-wide manner in that document.

XVIII. MITIGATION MEASURES

Geology:

Prior to issuance of any grading permits, a detailed erosion control plan shall be approved by the City Engineer in accordance with the City of Oceanside Grading Ordinance. All permanent manufactured slopes shall be landscaped as appropriate.

Water:

If unchecked, construction of the bike trail would result in potentially significant direct and cumulative water quality impacts associated with pre- and post-development surface runoff from the site (e.g., erosion, sedimentation, and urban runoff). Implementation of the following measures would reduce potential water quality impacts to below a level of significance:

To protect water quality in the San Luis Rey River, the following mitigation measures shall be implemented:

- Material and waste Best Management Practices (BMPs) during site grading and construction shall be strictly enforced;
- Non-structural post-construction BMPs such as a public education program (providing signage prohibiting dumping of any kind) shall be implemented.

Biological Resources:

Implementation of the following mitigation measures will reduce biological resource impacts to below a level of significance:

- The portion of the trail adjacent to the southern willow scrub habitat supporting Nuttall's lotus shall be monitored during construction to avoid direct and indirect impacts. Additionally, all construction areas adjacent to sensitive habitat shall be delineated with orange plastic fencing to ensure protection during construction. All staging areas shall occur off-site or on an area that does not contain native plant habitats.
- To minimize potential indirect impacts of the trail and its users, the area between the bike trail and river be revegetated and/or enhanced with native species indigenous to the general area, including a minimum 0.10 acre of coastal sage scrub.
- Construction of the project shall occur outside the least Bull's vireo breeding season which is March 15 to September 15.
- A wooden split-rail fence or other barrier shall be constructed along the northern edge of the trail and signed to indicate the sensitive nature of the adjacent habitat.

XIX. REFERENCES USED IN COMPLETING THIS INITIAL STUDY

Dudek & Associates

Biological Resources Report and Wetland Delineation for the Proposed San Luis Rey Bike Trail. March 1998.

Oceanside, City of

Recreational Trails Element of the General Plan. Adopted February 1996.

Recreational Trails Element of the General Plan Negative Declaration. October 1995.

Appendix C

VICINITY MAP AND PLANS

